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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,434	10/02/2000	Pascal Portrait	D-7683	4851

25572 7590 03/24/2004

THE MEAD CORPORATION
LEGAL DEPARTMENT
4850D NORTH CHURCH LANE
SMYRNA, GA 30080

EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

20

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/600,434

Applicant(s)

PORTRAIT, PASCAL

Examiner

John R. Paradiso

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,10,12,13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-6 and 19 is/are allowed.
- 6) ☒ Claim(s) 8,10,12,13 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendments

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

2. In the previous Office Action, claims 12, 13, 16-18, and 20 were indicated allowable because "the prior art could not alone or in combination anticipate or make obvious a method or apparatus in which articles are provided with an outwardly protruding portion in fixed position relative to a label on the article, the protrusion then being moved till it reaches an abutment in a carrier of the articles so that the articles are aligned in the carrier."

Upon re-consideration, these claims are viewed as reciting structure that precludes them as being considered means plus function claims and are thus broad enough, on re-consideration, to read on the prior art as discussed in the rejection below.

Claim Rejections

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by DIETRICH ET AL (US 5657610).

DIETRICH ET AL discloses a mechanism for grouping articles (30) in which an endless conveyor (37) moves an endless series of channels (39) along which articles are passed. The articles are organized into groupings (38) which are then subdivided into subgroupings (39) and pushed into containers. (See DIETRICH ET AL col. 1:65-2:35 and Fig. 1.)

5. Claims 12, 13, 16-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by KONTZ (US 4472217).

KONTZ discloses a method and apparatus for packaging in which the outer part of an article contains a protrusion (15) which is sensed by a positioning assembly, and used to orient the article. The member turning the article is read on the claimed "orientation means" and the aligning means (50) attached to the support is being read on the claimed "abutment means".

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over MONCRIEF (US 5531661).

MONCRIEF discloses a method and apparatus for forming cartons in which a carton blank (B) is conveyed past a die member (36) which has an indentation (58). A complementary die member (38) is provided to work with the die member (36). The blank is folded/opened by die member (70), which has a protrusion (68) that helps to open the blank.

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MONCRIEF does not disclose the use of a die with an indentation/complementary die with a protrusion for the opening/folding of the blank.

However, it is well known in the art to use hammer/anvil combinations in manipulating/folding blanks with rotating dies. MONCRIEF does disclose the use of a die with an indentation/complementary die with a protrusion for initial handling of the blank and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the invention of MONCRIEF with a die with an indentation to work in a complementary manner with the die (70) with the protrusion (68), in order to more positively control the blank as it is handled throughout the process.

Allowable Subject Matter

7. Claims 1, 2, 4-6, and 19 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter: Claims 1, 2, 4-6, and 19 are treated as means plus function claims and the prior art could not alone or in combination anticipate or make obvious a packaging machine in which a means for separating groups of articles creates sub-groups of articles, a means for carton erecting comprises complementary die members on rotating wheels with each die member engaging a carton blank between them and forming receiving cells in the carton, loading means for loading the subgroups of articles into the receiving cells.

The closest pertinent prior art, DIETRICH ET AL, discloses erecting/loading cartons, but not dividing the articles into subgroups.

Response to Arguments

9. Applicant's arguments filed 1/8/2004 have been fully considered but they are not persuasive.

10. Applicant states on page 9 of his Response that "Dietrich does not teach or disclose the divergence of the channels into sub-groupings from an initial grouping."

However, claim 10 recites "an endless series of channels along which articles may be transferred into a plurality of article receiving cells of a carton..". These channels are shown as (39) in Figure 1 of DIETRICH ET AL. Claim 10 further recites "the channels are organized into groupings whereby each grouping corresponds to a given number of grouped articles to be loaded into the carton..". This can also be clearly seen in the one-to-one correspondence between the articles and the carton cells in DIETRICH ET AL. Claim 10 continues "the channels adapted to be substantially parallel to one another and then diverge into subgroupings..". DIETRICH ET AL shows this divergence as increased spacing between the initial groupings (38) which are then subdivided into subgroupings (39).

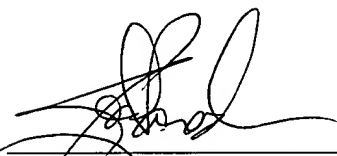
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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

March 21, 2004

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187
TC 3700 Receptionist: (703) 308-1148
Customer Service: (703) 306-5648
Fax (directly to Examiner) (703) 746-3253
Fax (Official): (703) 872-9306